

North Smithfield Zoning Board

June 17, 2008

Kendall Dean School

83 Greene Street, Slatersville, RI

The Chair called the meeting to order at 7:00 pm.

I. Roll call

Present: Chair Vincent Marcantonio, Bill Juhr, Dean Naylor, Steven Scarpelli, Guy Denizard, Stephen Kearns, and Mario DiNunzio. Also present were Building Official Bob Benoit, Assistant Solicitor Bob Rossi, and court stenographer Shelly Deming from Allied Court Reporters.

II. Disclosure of no compensation or pension credits received by the board members.

III. Approval of the draft of Findings of Fact and Decision of April 16, 2008, on the appeal of the Planning Board's decision of August 16, 2007. Narragansett Improvement Co., Rankin Path Realty. Location: Douglas Pike, Angela Way, Brookside Drive, Leonard Drive, Rankin Path; Assessor's Plat 14, Lots 17, 19, 20, 29, 31-34, 36, 88, 93, 107, 123, 125, 128, 135, 136, 139, 140, 141, 144, 145, 159, 202, 242.

The Chair asked for a motion to recess the meeting of the Zoning Board of Review and to reconvene the meeting of the Zoning Board of Appeal. Mr. Kearns made the motion, which was seconded by Mr.

Scarpelli. The Chair stated that the board is now sitting as the Zoning Board of Appeal. Mr. Rossi recused himself from the Board of Appeal. The Chair stated that the voting members for the Board of Appeal are Mr. DiNunzio, Mr. Jühr, Mr. Naylor, Mr. Kearns, and Mr. Marcantonio.

The Chair asked whether everyone had received a copy of the written decision and whether each member had a chance to review it. Mr. Naylor pointed out some discrepancies between the lot numbers listed on the decision and the ones on the original application. The decision was corrected to reflect the correct lot numbers.

Mr. Kearns made a motion to accept the written decision, as amended with the correct lot numbers. Mr. Jühr seconded the motion. Roll call vote was as follows: AYE: Mr. Marcantonio, Mr. Jühr, Mr. Kearns, Mr. DiNunzio, Mr. Naylor. Motion passed with a vote of 5-0. Written decision as amended was approved.

Mr. Naylor made a motion to adjourn the meeting of the Zoning Board of Appeal and to reconvene the meeting of the Zoning Board of Review. Mr. Kearns seconded the motion, with all in favor. (Marcantonio, Jühr, Kearns, DiNunzio, Naylor)

The Chair stated that the Zoning Board of Review is now back in session at 7:20 pm. Mr. Rossi stated that he is no longer recused.

IV. Approval of Minutes—May 20, 2008

Mr. Kearns made a motion to approve the minutes of May 20, 2008.

Mr. Denizard seconded the motion. Roll call vote was as follows: AYE: Mr. Scarpelli, Mr. Kearns, Mr. Juhr, Mr. Denizard, and Mr. DiNunzio. Motion passed with a vote of 5-0.

V. Application of David and Toni Nuttall, requesting a dimensional variance from section 5.5, subsection 5.5.1, rear and side yard variance. Locus is 65 Brookside Drive, Plat 14, Lots 114 & 130.

The Chair announced that the voting members for this application will be Chair Mr. Marcantonio, Mr. Juhr, Mr. Kearns, Mr. Scarpelli, and Mr. Denizard.

Attorney John Shekarchi was present for the applicant. Edward Pimental, expert in land use and planning, was sworn in by stenographer. Mr. Shekarchi, representing owners David and Toni Nuttall, gave an overview of the applicants' request. He stated that the applicants are seeking variances due to a preexisting nonconforming lot. They plan to build an addition in place of the existing garage. The addition will lessen the non-conforming setbacks and is in the best interest of neighbors. Mr. Shekarchi stated that the addition is a permitted use and that the closest abutters are in favor of the application.

Mr. Pimental addressed the Board with regard to the Zoning Ordinance and Comprehensive Plan. Mr. Kearns stated that Mr. Pimental's resume was received as part of the other application. Mr. Pimental submitted additional copies of the resume to be part of the record. He asked if the Board had received copies of a report that he

thought he had handed in a while ago. The report had not been received by Mr. Benoit; it was possibly given to Planning Board. The resume was marked exhibit P1. Mr. Kearns made a motion to accept Mr. Pimental as an expert in land use and planning. Mr. Scarpelli seconded the motion, with all in favor.

Mr. Pimental stated that he had visited property, evaluated the request, and based his findings on the town's zoning code and comprehensive plan. He stated that the property is located in an RA-65 zone, but the lot is substandard, as it predates the zoning of the area. The lot does not have the typical depth to width ratio, as it is an elongated lot, with constraints and narrowness, and as such the building envelope is limited. The existing house has 1,056 sq. ft., with 2 bedrooms. There is a lack of storage space. He stated that the existing structure is already encroaching; the proposed addition will lessen the encroachment. In his analysis of the neighborhood, he found that the majority of homes have garages similar in size and structure.

Mr. Pimental stated the burdens that the applicant faces in building the additions are as follows: the unique characteristics of both lot and structure, and the placement of dwelling dictates location of garage. He stated that the applicant is trying to realize greater enjoyment of dwelling. The addition is not being proposed for financial gain, and the applicant has asked for the least amount of relief possible for the side setback, and has reduced the

encroachment in the rear yard. He has reviewed the comprehensive plan, and in a residential zone, accessory structures are anticipated.

Mr. Kearns asked if they knew the setback of the property to the right of addition. Mr. Pimental did not know the setback of that property. Mr. Juhr asked if the homes in the neighborhood with similar garage structures are on non-conforming lots. Mr. Pimental responded that there are several lots on Brookside with less than a half acre.

David Nuttall was sworn in by stenographer. He pointed out the location of septic on the plans, which is located on the southern portion of yard, directly south of proposed covered porch and to the west of the proposed addition. This location was marked on plan over box reading "AP 14. Lot 130, drawing sheet 2, drawing 1, September 2007." The site plan was marked as exhibit P2. Marked as exhibit P3 was a letter dated April 15, 2008 from Mr. Shekarchi.

Mr. Juhr asked why the garage needs to be 24 ft. wide and why the garage does not end where the original wall is located. Mr. Nuttall stated that he wants a 2-car garage, but it would not fit in the original building size. The Chair stated that a 2 stall garage does not have to be 24 feet wide, and that he doesn't like setbacks of less than 10 ft. Mr. Nuttall stated that he had no problem with reducing the size of the garage by a few inches to leave a 10-ft. setback.

Mr. Denizard pointed out that the drawings state 2 different widths of

the lot. Mr. Nuttall stated that he will get that corrected so all plans agree. Mr. Scarpelli suggested that the applicant does not have to change the plans as long as the variance granted is stated clearly.

Edward Leja, next door neighbor to the applicant, was sworn in by stenographer to speak in favor of application. He stated that he has no objection whatsoever to the applicants' request. No one was present to speak against the application.

Additional exhibits entered into the record were P4) full set of plans (4 sheets total-3 depicting site, 1 showing a radius plan) and P5) applicants' original application filed with the Building Official.

Mr. Scarpelli made a motion to approve the application, with the condition that the side yard setback is not to exceed 10 ft. Mr. Denizard seconded the motion. Mr. Scarpelli amended the motion to include the condition that rear setback will be no less than 36.3 feet. Mr. Denizard seconded the amendment to the motion. Roll call vote was as follows: AYE: Mr. Scarpelli, Mr. Juhr, Mr. Marcantonio, Mr. Denizard, Mr. Kearns. Motion passed with a vote of 5-0.

Mr. Scarpelli made a motion for a 10-minute recess at 7:59 pm. Mr. Denizard seconded the motion, with all in favor.

VI. Application of Joe Jenks (owner Mary Zurowski), requesting to construct a building to be used as a religious institution, which

requires a Special Use Permit, per section 5.4.4, subsection 5. Locus is 1054 Victory Highway, Plat 1, Lots 141 & 151.

Attorney John Shekarchi was present for the applicant. Attorney Charles Reilly, representing 19 abutters, addressed the Board to request a one month continuance in order to have time to study environmental and traffic impacts, and possibly to obtain their own experts. Mr. Reilly stated that the applicant was given extension in April. He also added that there are significant wetlands on property, which need to be studied.

Mr. Shekarchi responded that his clients do not want to give an extension, as they have worked very hard to get extensive information on the request submitted to the Board.

Mr. Juhz asked when the abutters were notified. The clerk stated that certified mail was sent on June 3. One of the abutters stated that he had not picked up his letter until June 5. Mr. Juhz stated that due to short notice to abutters, he suggests that the Board continue the hearing. The Chair asked Mr. Rossi if the Board has the discretion to continue the hearing. Mr. Rossi clarified that notice was properly given, but it is within rules of zoning ordinance to grant a continuance. Given a particular hearing, the Board may consider it the abutters have had enough time to hire an attorney and review the application.

Mr. Juhz made a motion to continue the hearing to a date certain, at

least one month from now. Mr. Scarpelli seconded the motion. After discussion with both attorneys, Mr. Juhz amended his motion with the date of July 15, 2008. Mr. Scarpelli seconded the amended motion, with all members voting in favor. Mr. Rossi stated that the abutters do not need to be renotified, as this motion serves as notification for the date of the continued hearing.

Mr. Scarpelli made a motion to adjourn the formal meeting at 8:17 pm. Mr. Kearns seconded the motion with all in favor. The Board took a 5-minute recess.

The Chair called the Workshop Session to order at 8:25 pm.

I. Update on Fee Structure

Mr. Rossi stated that he has worked on Appendix A of the Zoning Ordinance to include all amendments and corrections discussed at previous meetings. The Chair has a copy and it will be on the Town Council agenda for July 21. He has placed all the language at end of fee structure, into the first paragraph of the appendix, clarifying that the fee paid does not cover cost of stenographic record and advertising. He would like to have Board members take another look at it and will email copies to all Board members.

II. Enforcement Issues

Mr. Benoit updated the Board on 3 outstanding zoning enforcement issues. He has been out to visit Mr. Perrault on Elizabeth Ave. Alan Tremblay of Mendon Road is talking with Town Solicitor Mark Hadden. The zoning violation has been recorded in the property deed. He has been out to the property of Donald Desper on Quaker Highway and videotaped the yard. He will write it up again, and send the information back to Mr. Hadden. Mr. Juhr asked if the Board could get a written update on these cases from Mr. Hadden. Mr. Benoit stated that if Mr. Hadden will give a written update, he will pass it on to the Board.

III. Update on Use Tables

The Chair stated that he would like to conduct a joint meeting with Ordinance Review Committee and the Zoning Board on the use tables. He will get back to the Board with more information in the future.

IV. Update on Zoning Maps

The Chair asked Mr. Benoit if the zoning maps have they been corrected to reflect an error discussed at a previous meeting. Mr. Benoit stated that the information was given to the Town Clerk, who should have corrected the official maps. The Chair asked if Town Council President Linda Thibault needs to initial the changes. Mr. Benoit will find out if the maps have been corrected and if they need

to be initialed.

V. Noise Ordinance

The Chair stated that the final proposed noise ordinance is very close to Burrillville's noise ordinance, and should be going to the Town Council soon. It is close to being finalized and he will get copies to the Board. Mr. Kearns asked if motorcycles are included in the ordinance. The Chair stated that the issue of motorcycles has been resolved, and the time element has been taken out.

Mr. Kearns stated that he has finished reviewing the information Mr. Naylor provided from the Land Use Workshop he attended and offered it to any other Board members who may be interested in reading it. Mr. Juhr took the information to review and will pass it on when he is finished with it.

Mr. Scarpelli made a motion to adjourn at 8:38 pm. Mr. Kearns seconded the motion, with all in favor.